

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEW JERSEY

Caption in Compliance with D.N.J. LBR 9004-1(b)

ANNA A. MILLER  
Trial Attorney, Tax Division  
P.O. Box 227  
Washington, DC 20044  
Tel. (202) 514-6068  
Fax. (202) 514-6866  
Anna.A.Miller@usdoj.gov  
Counsel for the United States of America

In Re:

PETER A. POLIJCZUK

**Case No.:** 23-19372

**Chapter:** 13

**Judge:** Jerrold N. Poslusny, Jr.

**RESPONSE TO MOTION TO MODIFY CLAIM**

The United States, on behalf of its agency the Internal Revenue Service, hereby responds to Peter A. Polijczuk's Motion to Modify the IRS's Claim (Dkt. No. 34). In response, the IRS asserts the following:

**Statement of Facts**

Mr. Polijczuk filed a Chapter 13 bankruptcy petition on October 28, 2023. At the time he filed his petition, he had not filed a tax return since tax year 2017. On February 15, 2024, the IRS filed Proof of Claim #11-1 in the amount of \$94,797.13, which includes the following liabilities:

1. Unsecured priority claims for tax years 2020, 2021, and 2022 in the amount of \$52,984.05, which pertain to:
  - a. Estimated federal income tax due for tax year 2020 in the amount of \$15,184.73 and accrued interest to the petition date of \$2,598.17;
  - b. Estimated federal income tax due for tax year 2021 in the amount of \$15,943.97 and accrued interest to the petition date of \$2,102.20;

- c. Estimated federal income tax due for the tax year 2022 in the amount of \$16,527.60 and accrued interest to the petition date of \$627.38;
2. Unsecured general claims for tax years 2018 and 2019 in the amount of \$41,813.08, which pertain to:
  - a. Assessed federal income tax due for the tax year 2018 in the amount of \$13,773.00 and accrued interest to the petition date of \$3,220.52.
  - b. Estimated federal income tax due for the tax year 2019 in the amount of \$14,461.65 and accrued interest to the petition date of \$2,474.44.

In response, Mr. Polijczuk filed a motion to modify the claim. (Dkt. No. 34.) The motion seeks to have the IRS's proof of claim modified to eliminate each of the unsecured priority claims in their entirety and the unsecured general claim for tax year 2019. These modifications would reduce the IRS's proof of claim to only the assessed federal income tax due for tax year 2018 and the accompanying interest. In support of these modifications, Mr. Polijczuk stated that his gross income was less than \$12,000 for tax years 2019 through 2022. (Dkt. No. 34-1.) He did not provide any other information regarding his actual income for those years.<sup>1</sup>

### **Argument**

Mr. Polijczuk has not demonstrated that the IRS's Proof of Claim requires any modification. A proof of claim properly executed and filed constitutes "prima facie evidence" of the claim's validity and amount. Fed. R. Bankr. P. 3001(f); *see also id.* 3002-3008. To overcome a properly filed and executed proof of claim, the debtor must submit evidence to contradict the claim. *In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d. Cir. 1992); *In re BlockFi, Inc.*, 2024 WL 497303, at \*2 (Bankr. D.N.J. Feb. 8, 2024). Mr. Polijczuk has not done so. Moreover, the Bankruptcy Code allows the IRS to file proofs of claim based on estimates, particularly where the

---

<sup>1</sup> Elsewhere, Mr. Polijczuk indicated that his average monthly income was approximately \$5,736 for the six full months before he filed his bankruptcy petition (approximately April 2023 through September 2023). (Dkt. No. 14.)

debtor has failed to file tax returns. *In re White*, 168 B.R. 825, 834 (Bankr. D. Conn. 1994); *see also* 11 U.S.C. § 502(c)(1). Because Mr. Polijczuk did not file tax returns for the years at issue, the IRS properly filed estimated claims for those years.

Once Mr. Polijczuk submits correct, processable personal tax returns for tax years 2019 through 2022 and processing is complete, the IRS may amend its Proof of Claim to more precisely reflect the income Mr. Polijczuk received during those years.<sup>2</sup> Until then, the IRS opposes any modification to its claims.

### **Conclusion**

Based on the foregoing, the IRS respectfully requests that this Court deny Mr. Polijczuk's Motion to Modify the IRS's Claim at this time. In the alternative, the IRS asks this Court to continue this hearing out for a minimum of 60 days, to allow the IRS time to receive and process any properly submitted tax return for the years at issue and thereafter file an Amended Proof of Claim, if appropriate.

*[Signatures on following page]*

---

<sup>2</sup> The IRS may also reject a return for any incomplete information, leaving the proffered return unfiled with the IRS.

Dated: March 25, 2024

DAVID A. HUBBERT  
Deputy Assistant Attorney General

/s/ Anna A. Miller

ANNA A. MILLER

D.C. Bar No. 252760

Trial Attorney, Tax Division

U.S. Department of Justice

Post Office Box 227, Ben Franklin Station

Washington, D.C. 20044

Telephone: (202) 514-6068

Facsimile: (202) 514-6866

Email: Anna.A.Miller@usdoj.gov

CERTIFICATE OF SERVICE

I certify that on March 25, 2024, I electronically filed the foregoing **Response to Debtor's Motion to Modify Claim** with the Clerk of Court using the CM/ECF system, which will then send a notification of electronic filing (NEF) to the following filing user(s):

David A. Kasen, Esq.  
NJ Bar No. 262881970  
KASEN & KASEN, P.C.  
Society Hill Office Park  
1874 E. Marlton Pike, Suite 3  
Cherry Hill, NJ 08003  
Telephone (856) 424-4144

*Counsel for Debtor*

/s/ Anna A. Miller  
ANNA A. MILLER  
Trial Attorney, Tax Division  
Attorney for the United States of America